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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,344	07/06/2001	Muneo Tokita	482842000300	8523

7590 09/08/2004

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EXAMINER

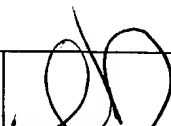
SINES, BRIAN J

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/806,344	Applicant(s) TOKITA ET AL.	
	Examiner Brian J. Sines	Art Unit 1743	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 32.

Claim(s) objected to: 3,8-11,16,24,26,27 and 34.


Claim(s) rejected: 1,2,4-7,12-15,17-25,28,29,31 and 33-36.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): The obviousness rejection of claim 32 over Gratzel et al. in view of Eriksson.

Continuation of 5. does NOT place the application in condition for allowance because: With regards to the rejection of claims 1, 2, 4 - 7, 12 - 15, 19 - 22, 29, 31, 35 and 36 over Gratzel et al. in view of Eriksson, the applicant's arguments are not persuasive. Regarding claim 1, the applicant has merely changed "retaining means" to "retaining member." Since the applicant asserts that the amendment to claim 1 does not change the scope of the claim, the examiner has taken the position that the rejection over Gratzel et al. in view of Eriksson does not change either. As shown in figure 4, Gratzel et al. do teach that the apparatus comprises a "retaining member" or structure, e.g., the inner sides of the extremity portion 8 of cavity 10 which holds or retains the inserted sensor 6 (see col. 4, lines 35 - 56). Furthermore, contrary to the applicant's assertions, claim 1 does not positively recite a "plunger" feature. Claim 32 is indicated as being allowable. It should be noted that claim 34 is presently dependent on canceled claim 30.


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